

<b>POLICE/SHERIFF'S DEPARTMENT</b>	<b>GENERAL ORDERS</b>
<b>SUBJECT: Narcotics Enforcement</b>	<b>NUMBER: 2-16</b>
<b>EFFECTIVE DATE: July 1, 1999</b>	<b>REVIEW DATE:</b>
<b>AMENDS/SUPERSEDES:</b>	<b>APPROVED: _____</b> <b>Chief of Police/Sheriff</b>
<b>CALEA STANDARDS: 43.1.1-43.1.6</b>	<b>VLEPSC STANDARDS: OPR.02.06, OPR.03.01-03.05, ADM.15.01-.03</b>

## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

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## **INDEX WORDS**

Confidential funds  
Drugs  
Informants  
Narcotics  
Searches  
Specialized equipment  
Task force operations

## **I. POLICY**

The department's interest in stemming the flow of illegal narcotics reflects the general attitude of the community and the assumption that illegal drugs contribute to a wide range of illicit activities. The department will investigate and enforce narcotics and dangerous drug violations at all levels. Vigorous enforcement enriches the quality of life in our community by reducing drug trafficking and related crime through a cooperative effort with our citizens. This order broadly outlines the responsibilities of all officers in enforcing narcotics laws and offers specific guidance on handling criminal investigations and narcotics evidence.

## **II. PURPOSE**

To provide investigative guidelines regarding narcotics and dangerous drug cases.

*[Note: In some jurisdictions, other terms are used instead of "raid," "informant," or "profile" because these words to a jury might connote illegal or sadistic law enforcement practices. Use the terms that are meaningful in your locality.]*

### III. PATROL PROCEDURES

#### A. General

Patrol officers are more likely to become involved in possession and street-dealing cases than large-scale sales and distribution incidents. Officers shall be especially mindful of the relationship between offenses commonly observed during patrol activities (such as DUI cases) and narcotics violations. A person who violates narcotics laws in all likelihood commits other kinds of criminal acts.

#### B. Elements of successful investigations

Although specific rules on the handling of all cases is not possible, successful prosecutions involve the following elements:

1. A thorough incident report, not only for cases involving illegal narcotics, but also those involving the seizure of contraband without an arrest being made. A thorough report attests to the proper chain of custody of evidence.
2. Specific offenders are targeted, and their habits, associates, vehicles, property thoroughly investigated with surveillance as necessary.

#### C. Directed patrol

The department practices directed patrol as the primary narcotics-control strategy. Directed patrol is distinguished from normal enforcement efforts by its focus on specific problems.

#### D. Vehicle check points

Checkpoints may be used in areas identified as having a heavy flow of narcotics-related vehicular traffic. DUI enforcement and routine license and registration checks are commonly used rationales for checkpoints. See GO 2-19 for guidance on constructing checkpoints. Checkpoints for narcotics-detection purposes shall conform to legal guidelines and are only conducted under direct authorization of the chief of police/sheriff and according to a written plan.

#### E. Intelligence gathering

The cornerstone of vigorous anti-drug efforts by patrol personnel is the development of intelligence. Intelligence is gathered chiefly by observing and talking. Officers

shall diligently record the presence of suspicious persons and vehicles in particular places by completing field interview cards.

1. Informants

The cultivation and handling of informants is a complicated but essential part of patrol work and is particularly important in narcotics enforcement. Refer to GO 2-11 for guidance on developing and handling informants.

2. Schools

Substance-abuse problems exist among both juveniles and adults. Arrests of juveniles, in fact, constitute a large portion of all arrests for narcotics offenses. School liaison programs are normally a function of specialized units such as D.A.R.E., however, patrol officers are expected to work closely with school officials on a wide variety of safety and security issues, including narcotics violations. Officers shall develop contacts with local public school administrators to obtain intelligence on the nature and extent of drug problems within schools.

F. Surveillance and arrest

The department encourages surveillance of locations where narcotics trafficking has been severe, particularly where open-air transactions are conducted. Controlling trafficking may mean making arrests for even minor misdemeanors committed in the officer's presence (such as littering) in order to disperse possible criminal activities and to learn identities of people.

G. Indicators

Frequently, stops of citizens based on reasonable suspicion that criminality may be occurring lead to seizures of narcotics and arrests. Refer to GO 2-3 for a discussion of investigative detention. Indicators, sometimes called profiles, refer to a cluster of characteristics that, when taken together, suggest criminality. These characteristics are used to pick a suspect so that he or she can be watched or approached. The department expects officers to detect criminality by deploying all legal investigative strategies but officers are cautioned not to borrow a third-hand indicator of a drug courier to substitute for good judgement. Reasonable suspicion that criminality has occurred or is occurring depends on facts known to the officer at the time of the stop or arrest. A legitimate indicator, sanctioned by the department, is a very specific attribute that is only valid for a limited time and under limited circumstances. These attributes or indicators can only be established based on considerable training and experience about drug trafficking. In any event, **officers shall not consider race or national origin only in determining whether or not to stop a person for a field interview.**

H. Street strategies

The department encourages all legal means of reducing drug trafficking. A number of strategies have proven successful in obtaining important information leading to criminal investigations. Officers shall remain mindful of the following strategies during patrol.

1. Use non-coercive conversations with possible suspects to create investigative opportunities. Without a show of authority or application of force, no constitutional issues arise that require the use of *Miranda* rights or search warrants.
2. Employ consent searches where and when appropriate. See GO 2-1 for a further discussion of the legal requirements.
3. With the considerations outlined under G above, officers may develop indicators of sellers and buyers appropriate for specific locations within officers' patrol areas. Indicators must be based on the officer's observations and knowledge of his or her patrol beat, not on generalized third-hand information. A well-constructed profile can yield reasonable suspicion for a stop.
4. Always bear in mind the requirements for reaching reasonable suspicion and the legal avenues that can be explored with reasonable suspicion as the basis (see GO 2-1, 2-3). A reasonable suspicion that drug trafficking has taken or is taking place may include flight or panic at the sight of a law enforcement officer, lying while being questioned, or a display of extreme or unusual nervousness in the presence of the officer.
  - a. In formulating reasonable suspicion, rely on observations of people and things that are exposed to public view or are in public places.
5. Employ drug-sniffing dogs to establish probable cause.
6. Inspect property abandoned by the suspect: no warrant requirements exist for this kind of search. Also, search adjacent areas thoroughly near the suspect: dealers may stash drugs nearby to avoid carrying them on their persons.
7. Exercise pat-downs or frisks **if** the officer suspects that the suspect may be armed. See GO 2-1 and 2-3. Absent a suspicion of danger, the officer may still ask for consent to frisk.
8. Use traffic stops to gather intelligence and develop reasonable suspicion or probable cause. Traffic stops, however, must be based on the observation of a motor vehicle violation or on an articulable reasonable suspicion.

9. Patrol officers should try to identify unfamiliar persons who are routinely observed on sidewalks and street corners. Officers should engage in consensual conversation, photographing, or records checks when appropriate, to identify these persons. Dealers from other jurisdictions thrive on anonymity.

#### IV. INVESTIGATIONS

##### A. General

The department does not have a full-time narcotics investigator although an officer may be assigned for part-time or temporary narcotics duty. When the need arises, the department may assign an officer to the *[regional task force named here]*.

##### B. Anti-drug task force

The department participates as a member of the *[regional task force named here]*. The department will not participate in any task force where the efforts of our assigned officer does not directly benefit the town/county. The task force exists to provide law enforcement agencies within *[your region]* to combine and coordinate resources to address a regional drug problem and to provide the ability to conduct cross-jurisdictional investigations through a regional network of information and intelligence on drug trafficking.

1. Officers assigned to the regional task force shall work under the immediate supervision of the commanding officer of the *[name the regional task force]*.
2. For purposes of indemnification of all personnel assigned to the task force and their respective agencies against losses, damages, or liabilities arising out of the activities of the task force, the personnel assigned by any jurisdiction shall be deemed to be continuing under the employment of that jurisdiction and its law enforcement agency.
3. Any sworn officer, while assigned to the task force and working under its commanding officer, shall have the same powers, duties, privileges, and immunities as are conferred upon him or her as a law enforcement officer in his own jurisdiction and in any participating jurisdiction.
4. In any asset forfeiture cases, the memorandum of understanding signed by all participants to the task force outlines how assets shall be shared.

##### C. Controlled buys

Arranging buys of illegal narcotics through informants is a key investigative strategy. Investigators using this method shall ensure that the informant (and his vehicle) is searched before the buy, given recorded currency, and again searched after the buy to

ensure that the person is not concealing a portion of the illegal substance. Investigators shall thoroughly debrief the informant after a buy to determine all circumstances that might affect the safety of officers during the service of a search warrant or other police action and to obtain additional details useful for later prosecution. Investigators shall maintain active or deactivated files on all informants. These files shall be strictly controlled. Refer to GO 2-11.

D. Confidential funds

1. All confidential funds shall be disbursed according to town/county fiscal management guidelines.
2. The chief/sheriff shall designate a confidential funds custodian (who may be an investigator) to maintain records and audit reports. The confidential funds custodian shall:
  - a. Maintain the fund according to local policies and all appropriate laws.
  - b. Properly disburse and deposit funds and maintain appropriate bookkeeping and banking practices.
  - c. Maintain a secure file of all transactions (with restricted access) and purge records as legally required.
  - d. Coordinate a semi-annual audit by a third party.
3. An independent accounting authority shall conduct an annual audit of the confidential fund.
4. The confidential funds custodian shall only disburse funds for the following purposes:
  - a. Payments to informants.
  - b. Purchase of illegal drugs, contraband, or other evidence to advance an investigation.
  - c. Expenditures for authorized undercover operations.
  - d. Flash money.
  - e. Purchases of food and beverages for an informant.
5. Documentation

- a. Officers shall prepare a written request for confidential funds.
- b. Officers who receive confidential funds shall prepare an expense report to account for all money withdrawn from the account. Receipts shall be obtained whenever possible. The report shall include:
  - (1) Informant control number for which funds were expended.
  - (2) Date and place of the expenditure.
  - (3) Copies of receipts, witnessed.
  - (4) Type of investigation.
  - (5) Case number.
  - (6) Evidence tag numbers of any drugs purchased.
- c. The officer holding confidential funds shall prepare the expense report as soon as practicable and submit it to the supervisor. When practicable, the informant shall initial receipt of funds on the expense report. *[Note that GO 2-11 requires the department to have the informant sign for receipt of money, along with a department witness other than the investigator. Circumstances do not always permit this practice.]*
- d. Unexpended funds shall be returned to the custodian who shall issue the officer a receipt.

E. Undercover operations

The nature of undercover operations requires officers to maintain professionalism and integrity while operating in a compromising environment. The chief/sheriff shall assign officers to undercover work based on the needs of the department.

1. Use of alcohol/drugs while on assignment

Undercover officers may find themselves in situations where drinking alcoholic beverages may be necessary. Officers shall keep alcoholic consumption to a minimum and must remain mindful that department policy forbids carrying a firearm when the officer consumes alcoholic beverages (see GO 2-6). Under no circumstances will an officer consume illegal drugs in any way unless forced to do so in a life-threatening circumstance. In such a case, the officer shall notify the supervisor as soon as possible.

2. Testing of undercover officers for substance abuse

GO 2-35 provides for drug testing of personnel during pre-employment physical examinations, regular physical examinations after employment, or upon reasonable suspicion. Officers working undercover assignments are subject to GO 2-35. Further, periodic psychological testing may be ordered by the chief/sheriff.

F. Special equipment

Narcotics investigations often require special surveillance and recording equipment. The supervisor of investigations holds the responsibility for determining equipment needs, inventorying and monitoring the use of specialized equipment, ensuring the timely reporting of damage or loss, and ensuring that all specialized equipment is in working order.

G. Intelligence and crime analysis

Intelligence gathering and crime analysis perform mutually supportive roles in narcotics investigations. Patrol personnel and investigators shall diligently document the intelligence they have gathered, investigations undertaken, informants developed, and any other information of relevance. This information is crucial to crime analysis which determines the selection of targets and supports planning. When compiling intelligence files, officers shall at least record the following information:

1. The frequency of occurrence by type of crime;
2. Geographic factors;
3. When targeted activities occur;
4. Descriptions of targets, their associates, and their methods of operation;
5. Descriptions of vehicles.

***[Note: Developing and maintaining intelligence files requires administrative controls on access, integrity of data, sharing of data, and purging of data. Federal guidelines regulate intelligence files to some degree. Contact DCJS for more information.]***

H. Raid

Raids shall be conducted only upon the authorization of the chief/sheriff. The supervisor of investigations shall confer with the chief/sheriff to develop a written operational plan for the raid. Raid planning includes outlining procedures for warrant procurement, tactical team use, deployment of personnel, officer safety,



communications procedures, and collection of evidence. Special planning must be done for raids involving suspected drug-producing laboratories because of the dangers posed by hazardous chemicals. Raid planning may include participation by other governmental agencies such as fire and health authorities.

## V. EVIDENCE PROCESSING

- A. Refer to GO 2-15 for general guidelines on the collection and processing of evidence. Procedures specific to narcotics cases are listed below.

B. Seizures and forfeitures

All seizures and forfeiture actions shall be conducted in accordance with either federal or state guidelines per department policy. Refer to GO 2-36.

C. Handling narcotics evidence

1. To the extent practicable, all drugs/narcotics shall be stored in clear plastic bags, bottles, or other containers to allow the contraband to be visible, thus reducing the need to break seals to examine or verify the evidence and thereby damage the chain of custody. The original containers of drugs/narcotics (such as film containers, prescription bottles) shall be packaged separately.
2. For all recovered drugs, the recovering officer shall obtain a gross weight (content and package) for quantity control.
  - a. Scales for weighing are provided at *[describe location]*. Before using the scales, officers shall check to ensure that the scale reads a zero balance and is correctly set.
  - b. The gross weight shall be witnessed by another officer.
  - c. If the drug is a tablet or capsule, a count may be substituted for gross weight. This exception is permissible when the drug is sealed in tamper-proof protective packages.
  - d. Seized drugs should be field tested if possible before packaging.
3. All drug evidence shall be submitted to the laboratory for examination within five days of receipt. Complete a Request for Laboratory Examination (Form DCLS FS002). *[Describe procedures for using the services of the nearest forensic laboratory.]*
4. Each time narcotics property is removed, the package or container shall be inspected for tampering and weighed.

5. Seizures in excess of 10 pounds of controlled substances or marijuana are addressed in *Virginia Code* § 18.2-253, -253.1. This section sets forth disposal procedures for large amounts of controlled substances.

D. Destruction of narcotics

1. Contraband drugs shall be destroyed according to this order.
2. The chief of police/sheriff shall designate an investigator to monitor the destruction of drugs.
3. The destruction monitor shall:
  - a. Select a random sample of the items designated for destruction, before the scheduled destruction date;
  - b. Arrange for the laboratory to test items qualitatively and quantitatively;
  - c. Compare results with those of prior agency laboratory tests;
  - d. Notify the chief of police/sheriff if any discrepancies are found whereupon the chief/sheriff may order an internal investigation;
  - e. Monitor the loading and moving of items to be destroyed, and observe the destruction;
  - f. After destruction, complete a report giving the date/time/location of destruction, and inventory of items destroyed, a list of witnesses, and the result of the random tests made before and after the destruction.